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Section II: REMARKS

It is respectfully requested that the changes as noted above in Section I be made to the present application.

In the present application, a First Office Action was mailed on 6/28/2004 which rejected all of the claims. An Amendment was submitted on 10/11/2004 which amended the claims to distinguish from the earlier cited references. A second and Final Office Action was mailed on 12/15/2004 which repeated the rejections contained in the First Office Action. A First Appeal was filed on 6/22/2005.

In response to the First Appeal Brief, another Office Action was mailed 9/8/05 in which the 12/15/04 Final Office Action was withdrawn and the rejections presented in the 12/15/04 Final Office Action were withdrawn, two new references were cited and all of the claims were again rejected under the new references. In response to the Office Action mailed 9/8/05, an Amendment was mailed on 12/8/05. In response to the 12/8/05 Amendment, another second and Final Office Action was mailed 4/6/06. A Second Appeal Brief was filed on 7/31/06.

In response to Applicant's Second Appeal Brief, the current Office Action was mailed 10/23/06. The current 10/23/06 Office Action has withdrawn the previous Office Action (mailed 4/6/2006) in view of applicant's Second Appeal Brief filed on 7/31/2006. However, a new reference (Price) was cited claims 1-24 were rejected under 35 USC 102(e) as being anticipated by Price (U.S. 6,738,932, herein referred to as "Price").

Those rejections are respectfully traversed. However, in order to

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further the prosecution of the present application, and without waiving any of applicant's rights to argue the allowability of the originally presented claims in a subsequent appeal or other proceeding in the event that the Examiner does not concur that the present amendment places the application in condition for allowance, applicant has herein amended the claims to place them in condition for allowance.

It is noted that the present application includes claims 1-24 with claims 1, 16 and 24 being independent claims, claims 2-15 being ultimately dependent from claim 1 and claims 17-23 being ultimately dependent from claim 16. All of the independent claims 1, 16 and 24 have herein been amended to clarify that in accordance with the present invention, an organization of executable software modules within a software package is determined and identification information is extracted from a sequence in which components of the executable software modules are linked. Price simply does not even mention the sequence of modules and does not disclose or even suggest deriving information from a sequence in which executable modules are linked.

The cited Price reference discloses a method and system for identifying software revisions from memory images which define a state of software execution at time of system failure in order to determine a cause of the failure. As noted in column 2, lines 50-65 of Price, the identification system includes an identification mechanism configured to process memory images from the computer system to determine the size in bytes of executables in the memory image. Identification of the software version, according to the cited reference, is achieved by comparing, at each matching offset, the lengths of executable text segments with the

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executable in the memory image. Price simply does not disclose or even suggest extracting any information from sequence in which components of said executable software modules are linked as is clearly claimed in the amended independent claims 1, 16 and 24. Price's system and the system of the present application are incompatible and teach in different directions; the system of Price would be unable to accomplish the objective of the present invention and the system of the present application would be unable to accomplish the objective of Price. Therefore it is submitted that, as herein amended, independent claims 1, 16 and 24 are allowable under 35 USC 102(e) over the Price reference. Moreover, since claims 2-15 and 17-23 ultimately depend from and include all of the limitations of claim 1 and claim 16, respectively, and include even further limitations as specified in each of the dependent claims, it is also submitted that claims 2-15 and 17-23 are also allowable under 35 USC 102(e) over the Price reference.

It is further noted that the applicant is not claiming that the individual elements of the claims as herein presented are new *per se*. Applicant is, however, claiming that the entire **combination of elements and relationships** among those elements as set out in the claims as herein amended, is patentable. It is established that all inventions are made up of known elements. However, the referencing of isolated elements in different contexts without any specific or stated suggestion of a beneficial combination or nexus cannot provide the basis to reject applicant's combination claims. Applicant is aware the individual elements of any claim can be isolated, and those elements, in different contexts, can be found in existing references. The similarity of various pieces and parts of the references as noted on pages 2-6 of the above-identified Office Action have been noted but it is believed that there is no suggestion or nexus among the references to even

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suggest any combination of those references or the total **combination of elements and relationships as recited in the claims as herein amended**. Where there is no teaching or suggestion in any of the references for the specific total combination of elements and relationships among those elements, as claimed by an applicant, it is submitted to be inappropriate to search the prior art using applicant's own disclosure as a recipe, to find piecemeal elements in prior art references for individual claimed elements, and then to combine those references in a manner not disclosed or even suggested by any of the references in order to reject applicant's own claims.

Thus, it is submitted that claims 1-24, as herein amended, are believed to be in condition for allowance, an early notice of which is hereby requested. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting the allowance of this application, and especially if one or more new references are cited, the Examiner is invited to contact the undersigned at the telephone number indicated below, prior to the issuance of another Office Action, in order to allow the applicant the opportunity to further amend the claims by Supplemental Amendment or Examiner's Amendment, as may be appropriate, to place the claims in condition for allowance. The Examiner's attention to this matter is greatly appreciated.

Respectfully submitted,

/Robert V. Wilder/

Robert V. Wilder (Tel: 512-246-8555)
Registration No. 26,352
Attorney for Applicants
4235 Kingsburg Drive
Round Rock, Texas 78681